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d/b/a The Cosmopolitan Hotel

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JACOB NADAV;

Plaintiff,

vs.

NEVADA PROPERTY 1 LLC, d/b/a
COSMOPOLITAN HOTEL; a domestic limited
liability company; DOE EMPLOYEES OF THE
COSMOPOLITAN HOTEL; DOES 1-25,
inclusive; ROE CORPORATION 1-25, inclusive,

Defendants.

CASE NO: 2:23-cv-01116-RFB-EJY

**STIPULATION AND ORDER TO
PROTECT CONFIDENTIAL
MATERIALS AND INFORMATION**

IT IS HEREBY STIPULATED AND AGREED, by the undersigned attorneys for the respective parties, that with regard to material disclosed in the course of the above-captioned lawsuit ("Lawsuit") which constitute or contain trade secrets or other confidential research, development, or commercial information of the parties ("Confidential Material"), the following procedures shall govern:

1. This Order is meant to encompass all forms of disclosure which may contain Confidential Material, including any document, pleading, motion, exhibit, declaration, affidavit,

1 deposition transcript, inspection and all other electronic and tangible items.

2 2. The parties may designate any Confidential Material produced or filed in this Lawsuit
3 as confidential and subject to the terms of this Order by marking such materials “Confidential.” If
4 any material has multiple pages, this designation need only be placed on the first page of such
5 material. Any material designated as “Confidential” shall not be disclosed to any person or entity,
6 except to the parties, counsel for the respective parties, and expert witnesses assisting counsel in
7 this Lawsuit.

8 3. Any material designated as confidential pursuant to paragraph 2 above shall be used
9 solely for the purposes of this Lawsuit and for no other purpose.

10 4. Prior to disclosure of any Confidential Material, each person to whom disclosure is to
11 be made shall execute a written “Confidentiality Agreement” (in the form attached as Ex. A hereto)
12 consenting to be bound by the terms of this Order. The parties, counsel for the respective parties
13 (including legal assistants and other personnel) are deemed to be bound by this Order and are not
14 required to execute a Confidentiality Agreement.

15 5. Only counsel of record in this Lawsuit shall be permitted to disseminate Confidential
16 Material. Upon dissemination of any Confidential Material, each non-designating counsel of record
17 in this Lawsuit shall maintain a written record as to: (1) the identity of any person given Confidential
18 Material, and (2) the identity of the Confidential Material so disseminated (such as by “Bates stamp”
19 number). Such record shall be made available to the designating party upon request.

20 6. If additional persons become parties to this Lawsuit, they shall not have access to any
21 Confidential Material until they execute and file with the Court their written agreement to be bound
22 by the terms of this Order.

23 7. In the event that any question is asked at a deposition that calls for the disclosure of
24 Confidential Material, the witness shall answer such question (unless otherwise instructed not to do
25 so on grounds of privilege) provided that the only persons in attendance at the deposition are persons
26 who are qualified to receive such information pursuant to this Order. Deposition testimony may be
27 designated as confidential following the testimony having been given provided that: (1) such
28

1 testimony is identified and designated on the record at the deposition, or (2) non-designating counsel
2 is notified of the designation in writing within thirty days after receipt by the designating party of
3 the respective deposition transcript. All deposition transcripts in their entirety shall be treated in the
4 interim as "Confidential" pursuant to paragraph 2 above. When Confidential Material is
5 incorporated in a deposition transcript, the party designating such information confidential shall
6 make arrangements with the court reporter not to disclose any information except in accordance
7 with the terms of this Order.

8 8. If a deponent refuses to execute a Confidentiality Agreement, disclosure of
9 Confidential Material during the deposition shall not constitute a waiver of confidentiality. Under
10 such circumstances, the witness shall sign the original deposition transcript in the presence of the
11 court reporter and no copy of the transcript or exhibits shall be given to the deponent.

12 9. If a party wishes to attach Confidential Material to a non-dispositive motion or other
13 filing (excluding dispositive motions) with the Court, then that party will notify the designating
14 party of its intent to attach the Confidential Material to the filing in writing at least ten (10) days
15 before filing. If the designating party believes that the release of the Confidential Material is adverse
16 to the terms of this stipulation, then the non-designating party will bring a motion to seal the non-
17 dispositive motion or other filing.

18 10. If any party makes inadvertent disclosure of any document or information that is subject
19 to an objection on the basis of privilege or the attorney work product doctrine, the disclosure will not
20 be deemed to waive that party's claim to its privileged or protected nature or estop that party or
21 privilege holder from designating the information or document as privileged or subject to the attorney
22 work product doctrine. Any party receiving any such information or documents shall return the
23 information or documents and any copies of the same upon written request from the producing party.
24 Upon receiving such a request as to specific information or documents, the receiving party shall return
25 the information or documents and any copies of the same to the producing party within five (5)
26 business days, regardless of whether the receiving party agrees with the claim of privilege and/or
27 work-product protection. If the information or document is disclosed by the non-producing party to a
28 third party in accordance with the provisions of this Order prior to the designation as subject to

1 privilege and/or the attorney work product doctrine, the party that inadvertently disclosed the
2 document or information is not deemed to waive its claim to the privileged or protected nature and is
3 not estopped from designating the information or document as privileged and/or subject to the attorney
4 work product doctrine. Furthermore, the non-producing party must send a request in writing to the
5 third party to whom the document or information was disclosed no later than five (5) days after a
6 request for return of the documents or information and any copies of the same from the producing
7 party, requesting that the third party to whom it was produced return the information or documents
8 and any copies of the same to the non-producing party. Upon receipt of the documents or information
9 and any copies of the same from the third party, the non-producing party must return the documents
10 and/or information and any copies of the same to the producing party within five (5) days of the non-
11 producing party's receipt of the same from the third party. As outlined in paragraph 15 below, nothing
12 in this Order prevents the parties from challenging any assertion of privilege.

13 11. If a party wishes to submit into the written record of this case any document marked
14 "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER" or excerpts from any such document, that
15 party shall seek to submit the document under seal.

16 12. Papers filed with the Court under seal shall be accompanied by a motion for leave to file those
17 documents under seal addressing the specific reasons for filing these documents under seal pursuant to
18 *Kamakana v. City of Cnty. Of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), and shall be filed in accordance
19 with the Court's electronic filing procedures. If papers are filed under seal pursuant to prior Court order, the
20 papers shall bear the following notation on the first page, directly under the case number: "FILED UNDER
21 SEAL PURSUANT TO COURT ORDER DATED [INSERT DATE]." All papers filed under seal will
22 remain sealed until such time as the Court may deny the motion to seal or enter an order to unseal them, or
23 the documents are unsealed pursuant to Local Rule.

24 13. If a non-designating party is subpoenaed or ordered to produce Confidential Material
25 by another court or administrative agency, such party shall promptly notify the designating party of
26 the pending subpoena or order and shall not produce any Confidential Material until the designating
27 party has had reasonable time to object or otherwise take appropriate steps to protect such
28 Confidential Material.

1 14. If a party believes that any Confidential Material does not contain confidential
2 information, it may contest the applicability of this Order to such information by notifying the
3 designating party's counsel in writing and identifying the information contested. The parties shall
4 have thirty days after such notice to meet and confer and attempt to resolve the issue. If the dispute
5 is not resolved within such period, the party seeking the protection shall have thirty days in which
6 to make a motion for a protective order with respect to contested information. Information that is
7 subject to a dispute as to whether it is properly designated shall be treated as designated in
8 accordance with the provisions of this Order until the Court issues a ruling.

9 15. Inadvertent failure to designate any material "Confidential" shall not constitute a
10 waiver of an otherwise valid claim of confidentiality pursuant to this Order, so long as a claim of
11 confidentiality is asserted within fifteen days after discovery of the inadvertent failure. At such
12 time, arrangements shall be made by the parties to designate the material "Confidential" in
13 accordance with this Order.

14 16. This Order shall be without prejudice to the right of any party to oppose production
15 of any information or object to its admissibility into evidence.

16 17. When any counsel of record in this Lawsuit or any attorney who has executed a
17 Confidentiality Agreement becomes aware of any violation of this Order, or of facts constituting
18 good cause to believe that a violation of this Order may have occurred, such attorney shall report
19 that there may have been a violation of this Order to the Court and all counsel of record.

20 18. Within thirty days after the termination of this Lawsuit (whether by dismissal or final
21 judgment), all Confidential Material (including all copies) shall be returned to counsel for the
22 designating party. In addition, counsel returning such material shall execute an affidavit verifying
23 that all Confidential Material produced to such counsel and any subsequently made copies are being
24 returned in their entirety pursuant to the terms of this Order. Such a representation fully
25 contemplates that returning counsel has: (1) contacted all persons to whom that counsel
26 disseminated Confidential Material, and (2) confirmed that all such material has been returned to
27 disseminating counsel.
28

19. After the termination of this Lawsuit, the provisions of this Order shall continue to be binding and this Court shall retain jurisdiction over the parties and any other person who has access to documents and information produced pursuant to this Order for the sole purpose of enforcement of its provisions.

IT IS SO STIPULATED:

Dated: October 3, 2023

Dated: October 3, 2023



HICKS & BRASIER, PLLC

/s/ Jonathan A. Rich

/s/ Tex J. Boonjue

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*Attorneys for Defendant Nevada Property 1 LLC
d/b/a The Cosmopolitan Hotel*

ORDER

IT IS SO ORDERED:

A handwritten signature in blue ink, reading 'Dayna J. Zouchak', written over a horizontal line.
UNITED STATES MAGISTRATE JUDGE

DATED: October 3, 2023

EXHIBIT A

CONFIDENTIALITY AGREEMENT

I, _____, affirm that I have read the foregoing Stipulation and Order to Protect Confidential Materials and Information entered in *Melva Strange v. Nevada Property 1 LLC*, et al., Case No 2:23-cv-1012-ART-EJY (“Protective Order”), currently pending before the United States District Court, District of Nevada (“District Court”), governing the documents produced by the parties in this case. I have read the Protective Order governing documents produced by the parties in this case. I understand its terms and agree to be bound by the terms of the Protective Order. I understand that my duties under the Protective Order will survive the termination of this case and that failure to comply with its terms may result in the District Court imposing sanctions on me. I consent to personal jurisdiction of the District Court for the purpose of enforcing the Protective Order.

I hereby affirm under the pains and penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED this _____ day of _____, 202__.

Signature

Printed Name